

Notice of Allowability	Application No.	Applicant(s)	
	09/898,550	PARKER, BENJAMIN J.	
	Examiner	Art Unit	
	Russell Frejd	2128	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to applicant's filing on 3-July-2001.
2. The allowed claim(s) is/are 1-27.
3. The drawings filed on 03 July 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 10.15.01
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.


RUSSELL FREJD
RUSSELL FREJD
PRIMARY EXAMINER

In re Application of: Parker

Allowance of Application # 09/898,550

1. The following communication is in response to applicant's filing on 3-July-2001. Claims 1-27 are currently in the application.

Reasons for Allowance

2. The following is an Examiner's Statement of Reasons for the indication of allowable subject matter. The instant application is directed to a non-obvious improvement over the information described in the related prior art, the most relevant prior art of record being the product line references, supplied by applicant on 15-October-2001, describing the various wire line simulators offered by Telebyte Broadband, found on the Internet at telebytebroadband.com. The improvement comprises a method and system for simulating a customer premises for a service provider, wherein the simulator is tunable to 1) enable a first load applied to the service provider signal to be varied in order to simulate an adjustment to the length of communication media being simulated, and 2) apply a second load to the service provider signal to simulate at least one customer premises device. This patentable distinction is included in each of the independent claims, nos. 1 and 15.

2.1 The examiner respectfully notes that the term "tunable" is a common term. Indeed, the wire line simulators offered in the Telebyte Broadband product line describe a line of simulators that can vary, i.e. "tune" (while not explicitly stated as such), the configuration of the load placed on the line, in order to simulate a plurality of different line lengths. In light of this information, the examiner carefully considered the specification, to determine if the claim language is directed to a specific meaning that separates the present invention from the prior art of record.

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2.2 The specification is clear as to the simulators that service providers currently use to simulate conditions that could affect communications from the service providers over the local loop [see p. 3, line 17 through p. 4, line 11; p. 6, line 13 through p. 8, line 4, and Figs. 1-2]. The current wire line simulators are fixed circuits that simulate a fixed length of wire. Fixed circuits mean that the components that make up the circuits have fixed values [see Fig. 2]. The Telebyte Broadband product line data sheets describe this feature, wherein most of the simulators can vary the load on the line in 500 ft. increments. The examiner respectfully posits that the currently used wire line simulators “tune” the load in fixed increments using fixed values of resistance, inductance and capacitance.

2.3 The present invention overcomes this limitation by “tuning” the wire line simulator through the use of variable, i.e. “tunable”, components, among them variable resistors, variable inductors, and variable capacitors [p. 3, lines 24-26; p. 8, line 6 through p. 9, line 23; and especially p. 10, line 30 through p. 12, line 2, and Figs. 3-5]. The specification describes the use of tunable components with explicit ranges [p. 11, lines 17-19; p. 12, lines 26-29] which can be tuned to simulate different lengths of wire. For at least this reason, the examiner concludes that the term “tunable” in the claims of the present invention describes the use of variable components to vary the load on the line wire in a manner not limited to the fixed increments of the current wire line simulators.

2.4 The art of record, either individually or in combination, fails to teach, suggest, or render obvious the useful, concrete and tangible <tunable simulator with application of a second load to simulate at least one customer premises device> having the corresponding structure which is disclosed in the specification and equivalents thereof at least at page 6, line 14 through page 13,

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line 21, and Figures 1-6. In view of the foregoing, the claims of the present application are found to be patentable over the prior art.

Response Guidelines

3. Any comments considered necessary by applicant **MUST** be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably accompany the Issue Fee. Such submissions should clearly be labeled "Comments on Statement of Reasons for Allowance".

4. **Any response to the Examiner in regard to this allowance should be**

directed to: Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0630 to 1500 ET, or the examiner's supervisor, Jean Homere, telephone number (571) 272-3780.

mailed to: Commissioner of Patents and Trademarks
P.O. Box 1450, Alexandria, VA 22313-1450

or faxed to: (703) 872-9306

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 22-February-2005

Russell FREJD

**RUSSELL FREJD
PRIMARY EXAMINER**